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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/942,516
Filing Date: August 30, 2001
Appellant(s): AUER, JOHN E.

Jack Schwartz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/24/2008 appealing from the Office action mailed 8/24/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Schoenberg et al., Patent Application Publication No: 2005/0125256 A1, (Publication Date: 7-2005, Provisional Application Date: 12-1996)

6,305,373 B1

WALLACE ET AL.

10-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-16 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenberg et al. (hereinafter Schoenberg) (U.S. Patent Publication 2005/0125256 A1) in view of Wallace et al. (hereinafter Wallace) (U.S. Patent No. 6,305,373 B1).

Claim 11 recites a method for displaying medical information derived from a plurality of sources, comprising the steps of:

- i. acquiring data associated with a patient from at least one of a plurality of sources (Schoenberg; abstract, paragraph 0012);
- ii. prioritizing the acquired data for display in a desired order (Schoenberg; paragraphs 0037, 0042); and
- iii. generating a composite window for displaying said ordered acquired data in a graphical format in a first panel, displaying user

specified parameters of said ordered acquired data in tabular format in a second panel(Schoenberg; paragraphs 0052, 0054, 0063), and displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data in a third panel

Schoenberg fails to expressly teach the user-entered ventilator data. However, this feature is well known in the art, as evidenced by Wallace.

In particular, Wallace discloses the user-entered ventilator data (Wallace; col. 3, lines 1-14).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Wallace with the motivation of controlling the ventilator and displaying the appropriate alarms settings and patient data (Wallace; abstract).

- iv. navigating through the user specified parameters in tabular format by positioning a slider bar included in said second panel (Schoenberg; paragraph 0052); and
- v. controlling a cursor included in said first panel, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format (Schoenberg; paragraphs 0052, 0054).

As per claim 12, Schoenberg discloses the method of claim 11.

Schoenberg fails to expressly teach the ventilator data comprising ventilator parameters. However, this feature is well known in the art, as evidenced by Wallace.

In particular, Wallace discloses the ventilator data comprising ventilator parameters (Wallace; col. 3, lines 14-18).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Wallace with the motivation of to configure a therapy that is customized for the particular patient (Wallace; col. 4, lines 6-11).

As per claim 13, Schoenberg discloses the method of claim 11 further comprising the step of displaying the acquired data within a user-selected time frame (Schoenberg; paragraph 0054).

As per claim 14, Schoenberg discloses the method of claim 13 wherein a cursor is displayed indicating a selected time during the selected time frame (Schoenberg; paragraphs 0037, 0054).

As per claim 15, Schoenberg discloses the method of claim 14 further comprising the step of displaying a time corresponding to the selected cursor time (Schoenberg; paragraphs 0037, 0054).

As per claim 16, Schoenberg discloses the method of claim 15 further comprising the step of providing an annotate icon for allowing a user to enter an annotation for the selected time during the selected time period (Schoenberg; paragraph 0051).

Claim 18 repeats that same limitations as claim 11. Therefore, claim 18 is rejected for the same reasons given in the rejection of claim 11 above and incorporated hereinwith.

As per claim 19, Schoenberg discloses the method of claim 18 further comprising the step of displaying the acquired data in different colors (Schoenberg; paragraph 0052).

As per claim 20, Schoenberg discloses the method of claim 18 further comprising the step of displaying the acquired data in varying scales (Schoenberg; paragraph 0055).

As per claim 21, Schoenberg discloses the system of claim 1 wherein said composite window includes a scalability icon for selecting a time scale of the displayed acquired data in both said graphical and tabular format (Schoenberg; paragraphs 0037, 0054).

As per claim 22, Schoenberg discloses the method of claim 11 further comprising the step of activating a scalability icon included in said composite window for selecting a time scale of the displayed acquired data in both said graphical and tabular format (Schoenberg; paragraph 0054).

As per claim 23, Schoenberg discloses the system of claim 1 wherein said concurrent navigation comprises navigation through substantially synchronized user

specified parameters in graphical format and tabular format (Schoenberg; paragraphs 0054, 0055).

Claim 1 has been amended now to recite in an internet compatible system for displaying medical information derived from a plurality of sources, apparatus comprising:

- i. an acquisition processor for acquiring data associated with a patient from at least one of the plurality of sources (Schoenberg; abstract, paragraphs: 0012, 0041), the processor prioritizing the acquired data for display in a desired order (Schoenberg; abstract, paragraphs: 0037, 0042);
- ii. a display (Schoenberg; paragraphs: 0011, 0030, 0067); and
- iii. a menu generating processor for generating a composite window (Schoenberg; abstract, paragraphs: 0030, 0067) including a first panel for displaying on said display user specified parameters of said ordered acquired data in a graphical format, a second panel for displaying user specified parameters of said ordered acquired data in tabular format, and a third panel for displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data (Schoenberg; abstract, paragraphs: 0052, 0054, 0063);
- iv. wherein said second panel includes a slider bar for navigating through the user specified parameters in tabular format (Schoenberg; paragraph: 0052); and

v. said first panel includes a cursor, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format (Schoenberg; abstract, paragraphs: 0052, 0054).

As per claims 2-6, 8-10, they are system claims, which repeat the same limitations of claims 12-16, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of Schoenberg and Wallace disclose the underlying process steps that constitute the methods of claims 12-16, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 2-6, 8-10 are rejected for the same reasons given above for claims 12-16.

(10) Response to Argument

In response to Appellant's argument about Schoenberg does not teach "prioritizing the acquired data for display in a desired order" (arguments on pages 6, 14, 21); Examiner respectfully submits that Schoenberg teaches "a medical information system receiving patient data and information from various sources and displays such information in a variety of formats for use by members of a medical team in a hospital, clinic or office...Access to selected subsets of patient information is provided by user selection of specific data sets identified by job function selection icons" in abstract, "The controller 14 is capable of receiving multiple data sets, each data set being representative of medical information. The controller 14 includes a user device

(keyboard/pointer 22) which is responsive to a user selection action for generating a selection signal. The user device may be any kind of selection device, for example, a keyboard (with cursor control), mouse, light pen, trackball, touch pad, or voice controlled pointer provided by speech recognition software.” in paragraph 0037, and “The medical data and other information of interest to the medical team is stored in a personal computer (PC), which processes and displays the information in real time in a graphic and/or text display. Various reports can be generated from the stored data. The user can combine different sets of data from different sources to obtain customized summaries of the patient's status and progress.” Therefore subsets of patient information is identified or prioritized by user selection of job function.

In response to Appellant's argument about Schoenberg does not teach “a menu generating processor for generating a composite window (arguments on pages 7, 10, 17-18, 22) including a first panel for displaying on said display user specified parameters of said ordered acquired data in a graphical format, a second panel for displaying user specified parameters of said ordered acquired data in tabular format, and a third panel for displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data (Schoenberg; abstract, paragraphs: 0030,0052, 0054, 0063, 0067); Examiner respectfully submits that Schoenberg teaches a primary display 12 and an associated display controller 14 in paragraph 0030, Schoenberg continues in paragraph 0054 that the system presents multiple graphical displays of patient information...user choice of one to four simultaneous displays...each of data sets can be displayed in a variety of formats, including graphical, tabular, bar

chart and pie chart formats, with or without split screen. Therefore Schoenberg teaches first, second and third panels, which are in any format described above. Also, Appellant argues that Schoenberg does not teach a third panel, which displays “user selected **one of** user-entered medical notes, medical laboratory results and ventilator data” (arguments on pages 7, 9, 14-15, 22); Examiner respectfully submits that claim recites any one of medical notes, medical laboratory results and ventilator data; and as Appellant admits that Schoenberg teaches user entry of medical notes and acquisition of medical laboratory results (remarks; page 7, last paragraph).

In response to Appellant's argument about Schoenberg does not teach “said first panel includes a cursor, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format” (arguments on pages 7-8, 10, 15-16, 23, 24). Examiner respectfully submits that paragraph 0031 of the specification of this application recite a time slider bar, so that (0031)”...The user may then use time slider bar 352 to focus on the specific time period within the days specified in the date navigator 330, so that the particular time period of interest may be displayed on the screen.” In paragraph 0054 Schoenberg teaches multiple graphical displays of patient information, which can be viewed simultaneously (paragraphs 0015 and 0054) and a time scale as a slider bar, the table below the graph includes numerical data in one minute intervals of time and time scale can be changed for any of all the images, a cursor in paragraph 0037 and in paragraph 0052 mutiple simultaneous displays, and tabular, graphical or graphical/tabular display.

In response to Appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In response to Appellant's argument about Wallace similar to Schoenberg, neither discloses "display of medical notes, laboratory results or ventilator data in a single panel"; Examiner respectfully submits that Schoenberg teaches multiple graphical displays of patient information, which can be viewed simultaneously, each of data sets can be displayed in a variety of formats, including graphical, tabular, bar chart and pie chart formats, with or without split screen. Therefore Schoenberg teaches first, second and third panels, which are in any format described above. Also, Appellant argues that Schoenberg does not teach a third panel, which displays "user selected **one of** user-entered medical notes, medical laboratory results and ventilator data"; Examiner respectfully submits that claim recites any one of medical notes, medical laboratory results and ventilator data; and as Appellant admits that Schoenberg teaches user entry of medical notes and acquisition of medical laboratory results (remarks; page 7, last paragraph). In response to Appellant's argument about Wallace does not teach "a processor for acquiring data associated with a patient from at least one of the plurality of sources, the processor prioritizing the acquired data for display in a desired order"; Examiner respectfully submits that Schoenberg teaches these limitations as explained in claims 1 and 11 above.

In response to Appellant's argument about there is no reasons or motivation to combine Schoenberg and Wallace; Examiner respectfully submits that Schoenberg teaches multiple graphical displays of patient information, which can be viewed simultaneously, each of data sets can be displayed in a variety of formats (Schoenberg; paragraph 0054); the medical information system receives patient information from a wide variety of sources, such as, doctors, pharmacists, patient monitoring equipment, testing laboratories, and other computer databases (Schoenberg; paragraph 0012). Schoenberg also teaches in paragraph 0031 that "A plurality of patient bedside monitors (such as a Hewlett-Packard Model M66 Merlin monitor) and other instruments (such as Puritan-Bennett Model 7200 ventilator), denoted M1, M2, . . . M.sub.n in FIG. 1, are coupled by way of separate interface units, I1, I2, . . . , I.sub.n respectively, to the display controller 14." Schoenberg does not teach "the ventilator data comprises at least one of a ventilator setting and ventilator parameter"; and Wallace teaches at least two touch sensitive screen displays (col. 3, lines 49-56), provide displays of patient data, alarm conditions and other information (col. 3, lines 14-18), and a vent settings screen in figure 8. The motivation to combine these two references is to configure a therapy that is customized for the particular patient (Wallace; col. 4, lines 6-11).

In response to Appellant's argument about neither of these references teach "a cursor is displayed indicating a selected time during the selected time frame" and "a time display field displays the time corresponding to the selected cursor time", Schoenberg teaches "The controller 14 includes a user device (keyboard/pointer 22) which is responsive to a user selection action for generating a selection signal. The user

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device may be any kind of selection device, for example, a keyboard (with cursor control), mouse, light pen, trackball, touch pad, or voice controlled pointer provided by speech recognition software.” in paragraph 0037. Schoenberg also teaches reference parameter is time in paragraph 0053, time scale can be selectively changed by a user in paragraph 0054.

Appellant is arguing that Schoenberg and another reference named "Hunt" do not disclose the claimed invention (arguments on pages 13, 21); Examiner respectfully submits that only Wallace reference has been used with the main reference of Schoenberg. Examiner considers that it is a typographical error, and Appellant meant to argue about the Wallace reference. The arguments are addressed in the above paragraphs.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dilek B Cobanoglu/

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